

REMARKS

Claims 29-32, 40-42, and 52 are pending. Claims 29-32, 40-42, and 52 have been amended and claims 58-68 have been added. No new matter has been added by the amendments, support therefore being found in the originally filed claims and specification (e.g., see page 3, line 31-page 5, line 4).

Favorable reconsideration in light of the amendments are remarks which follow a respectfully requested.

Applicant wishes to thank the Examiner for the courtesy of an interview conducted on October 5, 2005 with Applicant's representatives. During the interview, the rejections of the claims were discussed, and potential claim amendments were also discussed.

Claim 52 is rejected under 35 U.S.C. 102(e) over Athanasiou et al. (USPN 5,876,452).

Applicants respectfully traverse. Athanasiou describes a biodegradable implant comprising a first bioerodable polymeric structure material 12 and a second bioerodable polymeric structure material 14 having pores 16, 18 therein. An enzyme may be present in the copolymer-based material (col. 10, line 58-col. 11, line 7). The implant is inserted into the bone and releases bioactive agent.

Athanasiou at least fails to teach or suggest a kit for repairing cartilage comprising a cartilage membrane for application over a cartilage free cavity and a suspension capable of filling the cartilage free cavity, as set out in Applicants' claim 52.

Accordingly, claim 52 is patentable over Athanasiou. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 29-32, 40-42, and 52 are rejected under 35 U.S.C. 102(e) over Schwartz et al. (USPN 6,251,143 B1).

Applicants respectfully traverse. Schwartz describes a cartilage repair unit comprising a delivery unit 14 and a porous insert 16

Schwartz at least fails to teach or suggest materials for in vivo repair of cartilage comprising a cartilage membrane for application over a cartilage free cavity and a suspension capable of filling the cartilage free cavity, as recited in Applicants' claim 29.

Further, Schwartz does not teach or suggest a kit for repairing cartilage comprising a cartilage membrane for application over a cartilage free cavity and a suspension capable of filling the cartilage free cavity, as set out in Applicants' claim 52.

Accordingly, claims 29 and 52 are patentable over Schwartz. Claims 30-32, 40-42, and 58-68 depend from claim 29 and 59 and, likewise, are patentable over Schwartz. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 52 is rejected under 35 U.S.C. 102(b) over Kubo et al. (USPN 5,236,447).

Applicants respectfully traverse. Kubo describes an artificial tubular organ having a tubular supporting frame made of a plastic material which is provided on at least one surface therefore with a medical prosthetic material. The medical prosthetic is a woven fabric, a knitted fabric, a nonwoven fabric, or a combination thereof, wherein the fabric is an absorbable or nonabsorbable macromolecular yarn (see abstract). The artificial tubular organ is implanted, and the absorbable macromolecular yarns decomposed and absorbed to form pores or openings in the fabric, while the remaining nonabsorbable macromolecular yarns form a dense composite with the organism.

Kubo at least fails to teach or suggest a kit for repairing cartilage comprising a cartilage membrane for application over a cartilage free cavity and a suspension capable of filling the cartilage free cavity, as set out in Applicants' claim 52.

Accordingly, claim 52 is patentable over Kubo. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 29-32, 40-42, and 52 are rejected under 35 U.S.C. 102(b) over Li (USPN 5,206,028).

Applicants respectfully traverse. Li describes collagen membranes that are prepared in such a way that their density will not vary substantially once the membrane is prepared. According to Li, the membranes, even after wetted, the membranes will not appreciably swell or expand.

Li at least fails to teach or suggest materials for in vivo repair of cartilage comprising a cartilage membrane for application over a cartilage free cavity and a suspension capable of filling the cartilage free cavity, as recited in Applicants' claim 29.

Further, Li at least fails to teach or suggest a kit for repairing cartilage comprising a cartilage membrane for application over a cartilage free cavity and a suspension capable of filling the cartilage free cavity, as set out in Applicants' claim 52.

Accordingly, claims 29 and 52 are patentable over Li. Claims 30-32, 40-42, and 58-68 depend from claim 29 and 59 and, likewise, are patentable over Li. Reconsideration and withdrawal of the rejection is respectfully requested.

It is believed the application is in condition for immediate allowance, which action is earnestly solicited.

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Respectfully submitted,


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